

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Carol Gray

Date application filed with the Town Clerk: November 5, 2007

Nature of request: A Special Permit to operate a Bed and Breakfast for up to six (6) guests under Sections 5.0101 and 9.22 of the Zoning Bylaw

Address: 815 South East Street (Map 20B, Parcel 14, R-N Zoning District)

Legal notice: Published November 14 and 21, 2007 in the Daily Hampshire Gazette and sent to abutters on November 14, 2007

Board members: Barbara Ford, Jane Ashby and Albert Woodhull

Submissions: The petitioner submitted the following with the application:

- A project summary;
- A request for waivers from the requirement that a site plan be prepared by a Registered Engineer or Landscape Architect, and from the four required full-sized parking places (the applicant wishes to have two spaces for compact cars);
- A Management Plan;
- A copy of the license to operate a Bed and Breakfast business from David Zarozinski, Amherst Sanitarian, dated 4/23/07 with an expiration date of 4/20/08;
- Floor plans of the house, showing the Bed and Breakfast rooms;
- An Amherst GIS map with the location of potential parking places drawn on it, plus a hand drawn map giving dimensions of the parking places and the driveway.

The Planning Department staff submitted:

- A memo concerning the dimensional nonconformity, proposed parking issues and other aspects of the application, dated 11/20/07;
- Some alternate potential parking scenarios for the site, presented at the initial 11/29/07 hearing;
- An e-mail to the Board dated 2/21/08, listing some of the outstanding issues posed at the initial hearing.

For the February 21, 2008 continued hearing, the applicant submitted another parking plan that included an angled parking area close to the garage and a turnaround area downhill and to the east of the parking area.

For the April 3, 2008 continued hearing, the applicant submitted the following:

- A 1952 property survey obtained from the Hampshire Registry of Deeds;
- A site plan (superimposed on the survey) showing the location and design of the proposed parking, the turnaround area, the exterior lighting, the proposed sign location and existing vegetation;
- Pictures of two types of solar path lights, proposed to be placed along the driveway;

- The design and dimensions of the proposed sign;
- A request for a waiver from the required driveway width of Section 7.712 of the Zoning Bylaw.

Site Visit: November 27, 2008

The Board met with the applicant and her husband, Jeff Lee, at their home and observed the following:

- A long, narrow lot that is non-conforming as to frontage;
- A driveway that curves from the south to the north diagonally across the property, having a rise in elevation of approximately 15 feet from the street to the house;
- A stone wall in the front yard, approximately 20 feet from the front property line;
- A driveway entrance that is shared with the property to the south;
- A mailbox with the name, Birdsong Bed & Breakfast, and the logo painted on it;
- The three rooms of the Bed & Breakfast, called "Peace", "Wildflower" and "Garden".

Public Hearing: November 29, 2007

Ms. Gray spoke to the application at the hearing. She gave the following information:

- They currently have a B&B accessory use for up to three people, allowed by right under Section 5.0100 of the Zoning Bylaw;
- The business was inspected and approved in May, 2007;
- There are no changes or renovations proposed for the interior of the house;
- The three rooms, Peace, Wildflower and Garden will remain the same;
- One room faces the east to the Pelham hills; two face the woods to the west of the property;
- There is a great need for B&B facilities in Amherst, especially during homecomings or graduations;
- Currently she is unable to have two couples as guests at the same time;
- Even with more people via the Special Permit, there still shouldn't be more than two cars for the guests;
- The driveway length is 143 feet from the foot of the driveway to the house;
- She is requesting a waiver so that two of the parking places can be for compact cars;
- With 5 cars required (2 for the house and 3 for the three B&B rooms), the owner's car will be kept in the garage and four more spaces will be available in a parking area off the driveway.

The Building Commissioner, Bonnie Weeks, clarified the difference between having 5 or 6 guests. Section 5.0101 of the Zoning Bylaw allows up to 6 guests with a Special Permit, but the Building Code changes between 5 and 6 guests. A sprinkler system is required for 6 guests, but not for 5 guests.

Ms. Gray said that she would keep the maximum number of guests to five (5).

Ms. Ford asked where the property line to the north of the driveway is located. Mr. Woodhull added that the GIS maps are not completely accurate as to the location of the property lines. It's necessary to find the iron pins that mark the boundaries. The property deed should give the location of the pins plus the direction and number of feet to the next pin.

Ms. Ford asked how the parking spaces for compact cars would be controlled so that patrons would know which size cars went where. The applicant responded that she would put up signs indicating the spaces for compacts.

The applicant said that the guests could back out of the driveway, and described how it was done. She also asked whether it would be possible for guests to park on the lawn and not have a parking area. She was concerned about losing the view to the east if a parking area would be required.

Ms. Ford said that an oil and stone parking area could stand up to snow plowing. Or a grassy space with gravel underneath may work. In other words, it is possible to provide parking surfaces that would not be visually disturbing. Professional assistance will be needed, however, to design and build the parking area, she said.

Ms. Brestrup, senior planner, presented an alternative parking plan, with a turnaround area. There was discussion of the turning movements needed for cars and the need for a turnaround area for the guests. The Board agreed that negotiating the curve in the driveway plus backing onto busy South East Street as proposed is not a safe plan.

Ms. Ford asked if there are guests for the B&B in the wintertime. The applicant responded that yes, they are open all year. Ms. Ford asked about snow removal. The applicant said that they pile snow along the perimeter of the driveway. They would push the snow further back to allow cars to back up and turn around.

The Board inquired about plans for lighting. Ms. Gray said that there is a motion detector light by the garage. Mr. Woodhull said that there seemed to be a need for lighting along the driveway and suggested solar lights.

Ms. Gray gave a verbal description of the sign she would like for her business. The sign would say "Birdsong Bed & Breakfast" and would be on a pole about 7 feet above the ground. The pole would be wood panel with bark, and metal brackets. It would be two-sided, 2 feet by 1 ½ feet in size, and located near the mailbox.

Ms. Ford said that the hearing needed to be continued so that the applicant can submit accurate drawings of the parking, turnaround, lighting, sign, etc.

Ms. Ashby made a motion to continue the hearing to January 24, 2008 at 7:30 p.m. Mr. Woodhull seconded the motion, and the vote was unanimous to continue the hearing to January 24th at 7:30 pm.

Continued Public Hearing: January 24, 2008 and February 21, 2008

At the January 24th hearing, the applicant requested in writing that the hearing be continued because of the weather and the holiday. Accurate measurements of the northern property line could not be made because of the amount of snow on the ground.

For the February 21st continued hearing, the applicant presented a parking plan drawn by a graduate student in landscape architecture at the University of Massachusetts; the plan showed the following:

- Four angled parking places, two compact and two full-sized on the northern side of the driveway and closer to the garage than the previous plans;
- A turnaround area below and to the east of the parking places; cars would back into the area from the parking places and turn forward to drive down the driveway to South East Street;
- The turnaround area would be behind the stone wall that is located in the front of the property;
- The parking area and turnaround would be constructed of compacted gravel;
- The turning radius into the turnaround area meets fire safety standards, according to the graduate student who prepared the plan;
- The existing magnolia in front of the house and other trees close to the driveway in front of the house will be preserved by the plan.

The Board agreed that the submitted parking plan would work, and that it was a big improvement over the previous submissions.

The Board remained concerned, however, about the property line along the northern side of the property, and whether the proposed parking plan would extend over the property boundary or not. Ms. Gray said that she would have the property line surveyed when the snow melts enough to measure the line and to perhaps find some boundary pins.

Mr. Woodhull cautioned that the survey must be legal. Building Commissioner Weeks added that the measurements need to be conducted by a registered land surveyor, and the survey stamped by an RPLS.

Mr. Woodhull stated that a car must fit into the spaces shown on the plan, and wondered what would happen if three full sized cars arrived at the B & B. Ms. Gray responded that they advertise for nature lovers and environmentalists, and that their guests usually drive compact cars. The Board and petitioner agreed that if three full sized cars were parked on the property, one could park in front of the garage, and the applicant could use one of the compact places.

Section 7.102 of the Zoning Bylaw allows for up to 50% of the required parking places to be for compact cars spaces (8 x 16 feet). The area needed for full-sized parking spaces is 9 feet by 18 feet.

The Board found that the mix of compact with full spaces was appropriate for this location and use.

Mr. Woodhull asked about the width of the driveway. Ms. Gray said that the driveway is about 10 feet wide for much of the driveway, and widens for the entrance to South East Street. The Board noted that the Zoning Bylaw requirement for a single family driveway is 12 feet in width (Section 7.712) and that the applicant would have to ask for a waiver from width requirement if the driveway is less than 12 feet.

Ms. Ford stated that if the applicant needs to ask for a waiver for the driveway width plus determine where the property line to the north is located, then the hearing should be kept open until the driveway width and property line are accurately measured.

Mr. Woodhull added that it is critical to know where the property line is, since the parking area may have to be moved from its proposed location if the line is further south than assumed.

Ms. Ford noted that even though the neighbors may be congenial to the extra parking now, they may move and the next neighbors may not be as flexible. The permit must reflect the true property boundaries and that the parking plus screening, if needed, will not spill over the boundary onto the neighbor's property.

Ms. Ashby added that the revised site plan will need to show the location of the exterior lighting, the dimensions of the driveway and parking, and the distance from the property line. In addition the Board will need a mock up of the sign – the dimensions, colors, wording and location on the property.

The applicant stated that she would like to have solar lights along the driveway. Ms. Ford said that the Board would need the light specifications as well as the information that Ms. Ashby listed.

Ms. Ashby made a motion to continue the hearing to April 3, 2008 at 7:30 p.m. Mr. Woodhull seconded the motion, and the vote was unanimous to continue the hearing to April 3rd, 7:30 p.m.

Continued Public Hearing: April 3, 2008

Ms. Gray presented some new information and a new site plan. She said that the surveyor, from Howe Surveyors of Easthampton, found both the original survey from 1952 and the pins in the corners of the property in order to determine the north property line. Ms. Gray said that the property boundary was almost

exactly where she had assumed that it was.

The graduate student in landscape architecture that Ms. Gray had used earlier was able to scan the survey and superimpose the parking plan onto the survey. This plan was submitted to the Board for approval. The petitioner stated that the dimensions and location of the proposed parking area match that of previously submitted GIS property plan. The plan shows five parking places – one in the garage, two compact spaces closest to the garage and two full-sized places next to the compact spaces. The width of all of the four angled places, compact and standard, is nine feet. No trees will have to be destroyed with this plan. The shrubbery along the northern property line is located in the neighbor's property to the north, and will provide screening for the parking. There are no plans to remove the dense row of shrubbery, the petitioner said.

The driveway varies in width; it is 15 feet wide at the curbcut onto South East Street, 10 feet at the front property line in about 12 feet from the street pavement, 13 ½ feet at the turnaround area, and 10+ feet at the garage entrance. The applicant is asking for a waiver from the 12 foot required driveway width, Section 7.712 of the Zoning Bylaw.

In terms of exterior lighting, the petitioner said that there are two flood lights at the garage entrance, two wall-mounted lights near the front door, one wall mounted lamp near the side door, and a pole mounted light about 35 feet in front of the house. She is proposing five or more LED solar low lamps along the driveway. They will have remote solar collectors and will be powerful enough to be lit all night. The Board approved the lighting.

Ms. Gray submitted a picture of the graphics and wording of the sign. Particulars of the sign were:

- The dimensions would be either 16 x 24 inches or 20 x 32 inches; the Bylaw allows up to 8 square feet, so either size is acceptable to the Board;
- It would be mounted on a pole with bark and 6-7 inches in diameter;
- It would be placed 14 feet back from the road;
- The sign background would be white, with dark lettering, saying "Birdsong Bed & Breakfast";
- The chickadee graphic will be multi-colored, and the website address will have green lettering;
- Enamel paint plus varnish will render it weather-proof.

The Board was satisfied that all relevant information had been presented.

Ms. Ashby made a motion to close the hearing; Mr. Woodhull seconded the motion, and the vote was unanimous to close the hearing;

Public Meeting:

The Board discussed the waivers requested and determined that the plans and information given warranted granting two of the three waivers requested. The third request was for two compact car parking places, which was unnecessary.

Ms. Ashby made a motion to waive the requirement that the plans be prepared by a registered engineer, surveyor or landscape architect, and to waive the requirement that the driveway width be at least 12 feet. Mr. Woodhull seconded the motion, and the vote to grant the waivers was unanimous.

The Board spent the remainder of the public meeting discussing the conditions to the permit if it were to be granted.

Findings:

The Board finds under Section 5.0101 of the Zoning Bylaw, Bed and Breakfast, that:

5.01010- There will be an owner who resides on the premises responsible for the operation, the applicant and her family;

5.01011 – There are no separate cooking facilities for the guests. The property owners did provide breakfast to the lodgers.

5.01013 – One parking place will be provided for each room of the B&B operation, plus two places for the residence, for a total of five (5) parking places.

5.01014 – There are no more than three (3) rooms available for rent.

5.01015 – A Management Plan for the operation of the B&B was submitted and approved by the Board.

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because B&B businesses are allowed in all residential zoning districts and there are farms, conservation land and other residences in this area of Town.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because their property is large enough to accommodate extra cars on a temporary basis, the parking lot is shielded and the use is located indoors.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because the parking area is large enough to accommodate 4 vehicles, and there will be a turnaround area so that drivers can safely enter South East Street.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because no changes to the rooms or operations will be made. The operation is inspected yearly and meets all sanitary and safety criteria. The additional parking area plus turnaround space will make for a safer facility as well.

10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the town because the conditions of this permit require that the parking areas, including the garage, must accommodate five vehicles (Sections 5.01013 and 7.000 of the Bylaw), and the sign will be under the 8 square feet allowed for an accessory use (Section 8.100 of the Bylaw).

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes because the property is connected to Town water and sewer, and the Management Plan adequately addresses disposal of refuse/recycling.

10.391 and 10.392 – The proposal protects unique or important natural, historic or scenic features because there are no changes to the exterior of the house, and the parking is shielded by existing trees and shrubbery.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because the only additional lighting will be small solar path lights along the driveway.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants and guests to the Town of Amherst.

Public Meeting – Zoning Board Decision

Mr. Woodhull made a motion to APPROVE the permit with conditions. Ms. Ashby seconded the motion.

For all of the reasons stated above, the Board VOTED to grant Special Permit to operate a Bed and Breakfast for up to six (6) guests under Sections 5.0101 and 9.22 of the Zoning Bylaw on the premises at 815 South

East Street (Map 20B, Parcel 14, R-N Zoning District) as requested in the application filed by Carol Gray, with conditions.

Ms. Ford made a motion to approve the conditions of the permit as crafted by the Board. Ms. Ashby seconded the motion and the vote was unanimous to approve the conditions as crafted.

BARBARA FORD

JANE ASHBY

ALBERT WOODHULL

FILED THIS _____ day of _____, 2008 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2008.
NOTICE OF DECISION mailed this _____ day of _____, 2008
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2008,
in the Hampshire County Registry of Deeds.

**Town of Amherst
Zoning Board of Appeals**

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to operate a Bed and Breakfast as an accessory use for up to six (6) guests under Sections 5.0101 and 9.22 of the Zoning Bylaw on the premises at 815 South East Street (Map 20B, Parcel 14, R-N Zoning District) as requested in the application filed by Carol Gray, subject to the following conditions:

1. A parking area for four (4) additional vehicles and a turnaround area shall be built according to the site plan approved by the Board at the public meeting on April 3, 2008.
2. The sign for the bed and breakfast business shall be designed and fabricated using the colors, lettering and bird logo as approved by the Board at the public meeting on April 3, 2008.
3. The sign shall be no more than eight (8) square feet in area and shall not be internally lit.
4. Extra lighting along the driveway shall be low solar lamps as shown on the approved site plan.
5. Any additional exterior lighting shall be downcast.
6. There shall be no more than five (5) guests for the bed and breakfast business in the absence of a sprinkler system for the facility; if a sprinkler system is installed, there shall be no more than six (6) guests.
7. The business shall be managed according to the Management Plan approved by the Board at the public meeting on April 3, 2008.
8. The interior and exterior layout of the bed and breakfast business shall be in accordance with the plans approved by the Board at the public meeting on April 3, 2008.
9. Upon change of ownership of the property, a new Management Plan shall be submitted to the Board for approval at a public meeting.

Barbara Ford, Chair
Amherst Zoning Board of Appeals

DATE